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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/747,424	12/21/2000	Armando Paul Stettner	005217.P022	1478
33318	7590	03/10/2006	EXAMINER	
DIGEO, INC. 8815 122ND NE KIRKLAND, WA 98033			SRIVASTAVA, VIVEK	
			ART UNIT	PAPER NUMBER
			2617	

DATE MAILED: 03/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/747,424

Applicant(s)

STETTNER, ARMANDO PAUL

Examiner

Vivek Srivastava

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 and 24 - 36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-22, 24-26 and 34-36 is/are rejected.
- 7) ☒ Claim(s) 5, 6 and 27-33 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

With Applicant's various remarks as to the references teaching away from Applicant's invention, the Examiner asserts that just because a reference does something one way in lieu of another does not necessarily mean it teaches away from the reference. The Examiner suggest applicants in future responses to clearly identify how the reference teaches away from the invention claimed. As an example, simply stating that "Because this is the opposite of merchant-initiated communication, Levitan actually teaches away from the invention" is not enough. Applicant's must submit clear evidence that Levitan teaches advantages of user-initiated communication as opposed to merchant-initiated communication.

(1) Applicant argues, the cited references do not disclose notifying a specific merchant to allow the merchant to initiate communication with a customer as recited in claims 1 and 15.

The Examiner concurs. However, this feature would have been well known in the art, as a result, Applicant's arguments are not persuasive.

(2) Applicant argues, the cited references do not disclose notifying a merchant when a customer responds to an advertisement while watching an advertisement within a broadcast segment as recited in claims 1 and 15.

The Examiner respectfully disagrees. The customer is notified within "a broadcast segment" as a result, Applicant's arguments are not persuasive.

(3) Applicant argues the cited references do not disclose the claimed correlation of a characteristic of the interactive advertisement to the merchant information as recited in claims 5 and 6.

The Examiner respectfully disagrees. As previously discussed, and reiterated below, the cited references do indeed disclose this feature. As a result, Applicant's arguments are not persuasive.

(4) Applicant argues the cited references do not disclose video conferencing between the customer and specific merchant as recited in claims 7, 22 and 26.

The Examiner concurs. However, it would have been obvious to modify the references to include this feature as discussed below.

(5) Applicant argues the references do not disclose pre-order templates sent prior to an actual order as recited in claims 9, 19 and 24.

The Examiner respectfully disagrees. As previously discussed, and reiterated below, the cited references do indeed disclose this feature. As a result, Applicant's arguments are not persuasive.

(6) Applicant argues the cited references do not disclose claimed techniques for triggering notification of the merchant as recited in claim 10.

The Examiner concurs. However, it would have been obvious to modify Levitan to include this feature.

(7) Applicant argues Toader and Levitan fail to teach or suggest video communication, let alone video conferencing as recited in claim 22.

The Examiner concurs. However, it would have been obvious to modify Levitan and Toader to include this feature.

(8) Applicant argues the cited references do not disclose registering merchant preferred methods for automatically notifying the merchant when the customer response is detected as recited in claims 27 – 30.

The Examiner concurs. These claims are deemed allowable.

(9) Applicant argues the cited references do not disclose the claimed registration of merchant-preferred categories of customers from which to receive responses.

The Examiner concurs. These claims are deemed allowable.

(10) Applicant argues the cited references do not disclose the claimed audio indicator recited in claims 34 and 36.

The Examiner respectfully disagrees. As previously discussed, and reiterated below, the cited references do indeed disclose this feature. As a result, Applicant's arguments are not persuasive.

(11) Applicant argues the taking of "Official Notice". The amended claims, for which Official Notice was taken have been allowed. For the Official Notice taken for claim 36, the Examiner cites Kikinis et al (US 2002/0059597). See claim 15.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 4, 7 - 12, 14 – 21 and 34 – 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levitan (5,864,823) in view of Toader (5,806,043) and Kikinis (5,929,849).

Regarding claims 1 and 15, Levitan discloses a method, system and article of manufacture for linking a customer to a merchant of advertiser, wherein the user or customer can request "more information" after viewing a advertisement enabling a direct

link to the advertiser via the Internet (see col 7 lines 12 – 42). It is noted that since the user can communicate directly with the advertisers and compose and orders for products from the advertisers (see col 7 lines 12 – 42), Levitan disclose the claimed identifying customer information from the detected response, correlating the identified customer information to merchant information (advertisers web page) and triggering notification of the identified specific advertiser to allow communication between the user and specific advertiser.

Levitan discloses a server 18 which servers a plurality of client customer devices 16 (see fig 2). Levitan fails to disclose sending the response to the interactive advertisement to a server, wherein the server is capable to identify customer information from the detected response and a storage unit coupled to the server to store customer information and merchant information, the server coupled to access the storage unit to correlate the identified customer information to merchant information stored therein to identify a specific merchant and communication device coupled to the server to trigger a notification of the identified specific merchant to allow communication between the customer and the specific merchant.

Toader teaches an interactive user-vendor system which users a Internet entry server for hot-linking the customer to the sponsor's/vendors internet domain page (see col 2 lines 26 – 38). It would have been obvious to modify Levitan to include a server for performing linking the customer to the advertiser to enable a single server for identifying the customer response, storing the customer information and merchant information and communicating a trigger notification to trigger a notification of the

identified merchant to reduce the hardware/software associated with a storage device and communication device at the customer site. Therefore, it would have been obvious to one having ordinary skill in the art to modify Levitan to include the claimed limitations to minimize the costs, hardware and software associated with a storage device and communication device at the customer site needed for linking the customer to the plurality of merchants.

The combination of Levitan and Toader fails to teach the claimed while the customer is viewing the interactive advertisement is within a broadcast segment. Kikinis teaches a system and method which provides interactive commercials within a television broadcast (see col 6 lines 23 – 63, col 8 lines 23 – 53). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the combination of Levitan and Toader to include the claimed limitation to provide interaction and linking to vendor's and sponsors while the user is viewing commercials within a television broadcast segment as well as the COD as taught by the combination of Levitan and Toader.

The combination of Levitan, Toader and Kikinis fails to disclose the claimed the specific merchant to initiate communication with the customer. Official Notice is taken it would have been well known that if a user shows interest a merchant initiates communication with the customer. Therefore, it would have been obvious to one having ordinary skill in the art a the time the invention was made to modify the combination of Levitan, Toader and Kikinis to include the claimed limitation for the benefit of a

eliminating the need for the user to initiate communication for products or services the user is interested in.

Regarding claims 2 and 3, Levitan discloses the claimed interactive video casting and interactive television system (see col 5 lines 35 – 46, fig 3).

Regarding claim 4, Levitan discloses recipient's or customers name and email address (see col 3 lines 30 – 35) or "ID code".

Regarding claim 7, Levitan fails to disclose the claimed video conferencing. Official Notice is taken it would have been well known to communicate with merchants via video conferencing to provide a more realistic approach to shopping and purchasing products. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Levitan to include the claimed limitation for the benefit of providing a more realistic approach when it comes to shopping or purchasing products.

Regarding claims 8 and 18, the combination of Levitan, Toader and Kikinis fails to disclose wherein the interactive advertisement is capable of being provided via a telephone, and wherein the instructions to identify customer information from the detected response comprise audio processing instructions to identify words spoken by the customer into a telephone set as part of the response.

The Examiner takes Official Notice provide and advertisement via telephone would have been a well known means for providing advertising over a well-established well-connected infrastructure. Further, the Examiner takes Official Notice that audio processing a response by a user to identify words spoken by a customer into a

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telephone is well known means for a user to conveniently enter or provide information without having to physically enter the information by hand i.e. keyboard or remote control. Therefore, it would have been obvious to modify the combination of Levitan, Toader and Kikinis to include the claimed limitation to provide advertising over a well known- well-established infrastructure while conveniently processing user response information without having the user to physically enter the information.

Regarding claims 9 and 19 Levitan discloses composing an pre-order or “completing a pre-order template” include customer’s name, customer’s address and merchant’s or advertiser’s e-mail address or “merchant information” (see col 3 lines 30 – 35). It is noted that the template must be received and processed before the order can be complete. Thus Levitan discloses the claimed pre-order template.

Regarding claim 10, Levitan discloses triggering notification and communication between the specific merchant via email (see col 3 lines 25 – 43). Official Notice is taken it would have been well known to modify Levitan to notify a merchant by telephone or fax. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Levitan to include the claimed limitation for the benefit of using a conventional communication means which is widely accessible.

Regarding claims 11 and 21, Levitan discloses displaying a link or “trigger”, which is transmitted with the advertisement, enabling a customer to select the link for direct communication link between the customer and advertiser (see col 7 lines 29 – 43).

Regarding claims 12 and 20, Levitan discloses the claimed interactive video casting system (see col 5 lines 35 – 45 and col 3 lines 25 – 45) and instructions inherently included for displaying “more information” or a link to the advertisers web page (see col 7 lines 24 – 43). It is noted that instructions are inherently included to detect customer activation to the indicator since the user can access the advertiser’s web page.

Regarding claim 14, the combination of Levitan, Toader and Kikinis discloses the claimed limitation, wherein Toader discloses the claimed communication (see col 1 lines 15 – 27, col 6 lines 1- 18).

Regarding claim 16, the combination of Levitan, Toader and Kikinis disclose the claimed limitation, wherein Toader discloses hot-linking the customer to the vendor which would include identifying an identification code corresponding to the client or customer terminal (see col 2 lines 26 – 40).

Regarding claim 17, Levitan discloses a link which inherently comprises an address meeting the claimed “correlate a characteristic associated with the interactive advertisement to the merchant information” (see col 7 lines 24 – 43).

Regarding claims 34 – 35, the combination of Levitan, Toader and Kikinis discloses the claimed limitation, wherein Kikinis disclose a visual indicator that the advertisement is interactive (fig 2A item 57, col 6 lines 50 – 63, col 7 lines 18 – lines 67).

Regarding claim 36, the combination of Levitan, Toader and Kikinis fails to disclose the claimed audio indicator. Official Notice is taken a means for alerting or

indication by audio is a well known means for quickly alerting a user or getting a user's attention. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the combination of Levitan, Toader and Kikinis to include the claimed limitation to quickly alert the user that interactive content is present.

Claims 22 - 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levitan (5,864,823) in view of Toader (5,806,043).

Regarding claim 22 Levitan discloses a method, system and article of manufacture for linking a customer to a merchant of advertiser, wherein the user or customer can request "more information" after viewing a advertisement enabling a direct link to the advertiser via the Internet (see col 7 lines 12 – 42). It is noted that since the user can communicate directly with the advertisers and compose and orders for products from the advertisers (see col 7 lines 12 – 42), Levitan disclose the claimed identifying customer information from the detected response, correlating the identified customer information to merchant information (advertisers web page) and triggering notification of the identified specific advertiser to allow communication between the user and specific advertiser.

Levitan discloses a server 18 which servers a plurality of client customer devices 16 (see fig 2). Levitan fails to disclose sending the response to the interactive advertisement to a server, wherein the server is capable to identify customer information from the detected response and a storage unit coupled to the server to store

customer information and merchant information, the server coupled to access the storage unit to correlate the identified customer information to merchant information stored therein to identify a specific merchant and communication device coupled to the server to trigger a notification of the identified specific merchant to allow automatic communication between the customer and the specific merchant.

Toader teaches an interactive user-vendor system which users a Internet entry server for automatically hot-linking the customer to the sponsor's/vendors internet domain page (see col 2 lines 26 – 38). It would have been obvious to modify Levitan to include a server for performing linking the customer to the advertiser to enable a single server for identifying the customer response, storing the customer information and merchant information and communicating a trigger notification to trigger a notification of the identified merchant to reduce the hardware/software associated with a storage device and communication device at the customer site. Therefore, it would have been obvious to one having ordinary skill in the art to modify Levitan to include the claimed limitations to minimize the costs, hardware and software associated with a storage device and communication device at the customer site needed for linking the customer to the plurality of merchants.

The combination of Levitan and Toader fails to disclose the claimed video conferencing. See rejection above.

Regarding claim 24 Levitan discloses composing an pre-order or “completing a pre-order template” include customer’s name, customer’s address and merchant’s or advertiser’s e-mail address or “merchant information” (see col 3 lines 30 – 35). It is

noted that the template must be received and processed before the order can be complete. Thus Levitan discloses the claimed pre-order template.

Regarding claim 25, Levitan discloses an interactive video casting network coupleable to the server and capable to provide the interactive advertisement to the customer (see col 7 lines 13 – 43 and fig 2).

Regarding claim 26, Levitan discloses video equipment at both the server location and customer location for transmitting advertising video clips from the server to the customer. However, Levitan fails to disclose the claimed video equipment at both the customer's location and vendor location to facilitate communication.

In analogous art, Toader teaches an interactive user-vendor system which users a Internet entry server for automatically hot-linking the customer to the sponsor's/vendors internet domain page (see col 2 lines 26 – 38). Toader further teaches by hot-linking to the vendor's page, a customer can get product information (see col 2 lines 28 – 38). It would have been obvious to modify Levitan to include video equipment at both the customer and vendor location for the benefit of the user viewing product information which is more pleasing i.e. video format. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Levitan to include the claimed limitations to minimize the costs, hardware and software associated with a storage device and communication device at the customer site needed for linking the customer to the plurality of merchants and to provide a more pleasing depiction of product information which would be in video format.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Levitan in view of Toader and Kikinis as applied to claim 1 above, and further in view of McCollom et al (6,343,274).

Regarding claim 13, the combination of Levitan and Toader fails to disclose the claimed further comprising registering a plurality of merchants for interactive advertisements, including obtaining corresponding merchant information from the registered merchants.

McCollum discloses an interactive advertising system in which the merchants register for advertisement slots by entering required contractual information like identifying the merchant and categories for commercials etc. (see col 5 lines 30 – 63). It would have been obvious modifying the combination of Levitan and Toader to include the claimed limitation of registering the merchant would enable a more organized and secure means for scheduling advertisements to be sent while keeping track of the merchants providing advertisements. Therefore, it would have been obvious to modify the combination of Levitan and Toader to include the claimed limitation to provide a more organized and secure system for providing advertisements and to keep track of the merchants providing advertisements.

Allowable Subject Matter

Claims 5, 6, 27 – 33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Reimer et al (5,715,400) – Establishing links to merchants

Bezos et al (6,029,141) – Internet-based customer referral system

Wolff (6,247,047) – Computer network transactions


Shimomura et al (6,526,580) – Broadband data broadcasting service

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vivek Srivastava whose telephone number is (571) 272-7304. The examiner can normally be reached on Monday – Friday from 9 am to 6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272 – 7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Vs
6/19/05



VIVEK SRIVASTAVA
PRIMARY EXAMINER